

RECEIVED

JUN 15 2011

**ORDINANCE NO. 537**

TECHNICAL SUPPORT 074

AN ORDINANCE OF THE CITY OF HEYBURN, MINIDOKA COUNTY, IDAHO, ANNEXING CERTAIN REAL PROPERTY OWNED BY WILLIAM EMMETT, JOHN M. THAIN AND SHERIE C. THAIN; KANNER CREEK, LLC; AND KEVIN GEORGE AND KRESTA GEORGE, ALL OF WHICH IS ADJACENT TO THE CITY AND LOCATED IN MINIDOKA COUNTY; AND DESIGNATING THE ZONING FOR SUCH LAND AS "RL" (RESIDENTIAL LOW) AND, PROVIDING FOR ADOPTION WITH ONLY ONE READING; AND, PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the City finds that the land described below, (the "Subject Property"), is contiguous to the City as set forth on the area map attached as Exhibit "A" and that all of the land lies within the City's Area of Impact; and,

WHEREAS, the said Subject Property is being used for residential use or is to be developed for residential use in the future; and,

WHEREAS, the City has utility services adjacent to the Subject Property; and,

WHEREAS, the City hereby determines and declares that it is in the best interests of not only the property owners of the Subject Property, but also the City as a whole for such land to be annexed into the City and that such annexation is consistent with the City's current version of the City's Comprehensive Plan and that such annexation is reasonable given all factors; and,

WHEREAS, William Emmett, has requested annexation and, further, the property owned by Kevin George and Kresta George receives water and sewer service from the City and implied consent by the owners has been given as provided in Idaho Code Section 50-222 (4) (ii); and therefore the City can proceed with the annexation as a "Category A" type of annexation as set forth in Idaho Code Section 50-222 (3) and (5) (a); and,

WHEREAS, the property owned by John M. Thain and Sherie C. Thain and by Kanner Creek, LLC has been laid off in lots or blocks and pursuant to Idaho Code Section 50-222 (5) (b) (ii) the City can proceed with the annexation as a "Category B" type of annexation as set forth in Idaho Code Section 50-222 (3) and (5) (a) and City has adopted a Plan of Annexation; and,

WHEREAS, the City has determined that the most appropriate zoning district designations for the said Subject Property would be "RL" (Residential Low) ; and,

*K. Watson*

WHEREAS, pursuant to the laws of the State of Idaho and the ordinances of the City, public hearings were held pursuant to public notice as follows: before the Heyburn Planning and Zoning Commission on May 16, 2011 at 7:00 P.M. and reported its recommendations to the City Council at its May 25, 2011 regular meeting; and before the Heyburn City Council on May 25, 2011 at 7:00 P.M.; and both bodies did invite and take public comment and received documents which were all admitted to the official record of the proceedings and were also duly reviewed; and,

WHEREAS, the Planning and Zoning Commission, after due deliberation, recommended to the Council that such petition for annexation be granted and the Subject Property recommended that the property be zoned as "AL" (Agricultural Low); and the City Council after due deliberation, decided that the zone would be more appropriately designated as "RL" (Residential Low) and also agreed that such petition should be granted and finds that such zoning designation is in the best interests of the City, its growth, economic development and is consistent with the City's Comprehensive Plan; and,

FURTHER, consistent with the foregoing, the City makes the following findings and conclusions:

1. The Subject Property is contiguous to the City of Heyburn as depicted on Exhibit "A".
2. The City has domestic water and sewer facilities adjacent to the Subject Property.
3. All of the Subject Property is within the City's Area of Impact.
4. The City has adopted a Plan of Annexation dated May 11, 2011.
5. The owners of the Emmett Parcel and the George Parcel have expressly or implied given consent to annexation.
6. The land described as the Thain Parcel and Kanner Parcel have been laid off in lots and blocks of less than 5 acres.
7. The property owner of the Subject Property has requested to be annexed into the City and has petitioned the City to be annexed.
8. The Subject Property is contiguous the exiting City limits on its west side, abutting Villa Drive or the Biscotti Estates Subdivision to the City of Heyburn to the east.
9. The Subject Property can be served now or in the immediate future

by all of the City's municipal utility services.

10. The City has adequate means to provide law enforcement as needed in the subject property.

11. The current or intended use of the Subject Property is residential. The City finds that "RL" (Residential Low) is most appropriate designation.

12. Annexation of the Subject Property at this time is in the best interests of the City so that the City can continue to plan and make further arrangements to provide municipal utilities and develop appropriate roads and other infrastructure to the Subject Property in order for it to be developed as a residential area.

13. The annexation of the Subject Property will allow for orderly growth and economic development of the City and is in the best interests of the City and its citizens.

NOW THEREFORE, be it ordained by the Mayor and City Council of the City of Heyburn as follows:

Section 1: The following described land (the Subject Property) is hereby declared to be annexed to and incorporated into the City of Heyburn as a part of said City; and, the city limits of the City of Heyburn being enlarged to encompass such land within its borders:

THE HEREINAFTER DESCRIBED ANNEXATION AREA COMPRISES THAT SAME REAL PROPERTY OWNED BY JOHN M. THAIN AND SHERIE C. THAIN (THAIN PARCEL) WITH A PORTION CONVEYED TO KEVIN GEORGE AND KRESTA GEORGE BY THE WARRANTY DEED RECORDED DECEMBER 31, 2002 AS INSTRUMENT No. 463042, MINIDOKA COUNTY RECORDS (GEORGE PARCEL), ALONG WITH THAT SAME REAL PROPERTY CONVEYED FROM BRANDON HAWKER AND AMBER V. HAWKER TO KANNER CREEK, LLC (KANNER PARCEL) BY THE WARRANTY DEED RECORDED SEPTEMBER 6, 2007 AS INSTRUMENT No. 492812, MINIDOKA COUNTY RECORDS, AND ALONG WITH THAT SAME REAL PROPERTY CONVEYED FROM J J & A, INC. TO WILLIAM EMMETT (EMMETT PARCEL) BY THE WARRANTY DEED RECORDED MAY 27, 2005 AS INSTRUMENT No. 478568, MINIDOKA COUNTY RECORDS, THE WHOLE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO.

SECTION 22: A PORTION OF THE NW1/4SE1/4, AND A PORTION OF THE

SW1/4NE1/4 BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 22, MARKED BY A ½" REBAR INSIDE A 3" IRON PIPE AND RUNNING THENCE ALONG THE WEST LINE OF SAID SW1/4NE1/4 NORTH 0°11'15" WEST 100.00 FEET TO A ½" REBAR AT THE NORTHWEST CORNER OF THE AFORESAID LANDS OF EMMETT; THENCE ALONG THE NORTH LINE THEREOF NORTH 89°58'17" EAST 237.41 FEET TO A ½" REBAR AT THE NORTHEAST CORNER OF SAID LANDS OF EMMETT; THENCE ALONG THE EAST LINE THEREOF SOUTH 0°18'42" EAST 100.00 FEET TO A ½" REBAR AT THE NORTHWEST CORNER OF THE AFORESAID LANDS OF KANNER CREEK, LLC; THENCE ALONG THE NORTH, EAST AND SOUTHERN LINES THEREOF AS FOLLOWS: NORTH 89°58'17" EAST ALONG THE NORTH LINE OF SAID NW1/4SE1/4 FOR 208.85 FEET TO A ½" REBAR, SOUTH 0°18'42" EAST 437.14 FEET TO A ½" REBAR, SOUTH 89°58'17" WEST 447.42 FEET TO THE WEST LINE OF SAID NW1/4SE1/4, AND ALONG SAID WEST LINE NORTH 0°11'15" WEST 20.00 FEET TO A ½" REBAR AT THE SOUTHWEST CORNER OF THE AFORESAID LANDS OF GEORGE; THENCE CONTINUING ALONG THE WEST LINE OF THE NW1/4SE1/4 NORTH 0°11'15" WEST 417.14 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED ANNEXATION AREA CONTAINS 5.03 ACRES, MORE OR LESS.


Section 2: The said Subject Property should be and hereby is zoned as follows: "RL" (Residential Low). Such designation as to such land shall be deemed an amendment to the City's Official Zoning Map.

Section 3: The City Council having by authorizing motion and vote waived the rule of requiring three separate readings of this Ordinance, by title and in full, therefore this ordinance shall be in full force and effect from and after its first and only reading, passage, approval and publication.

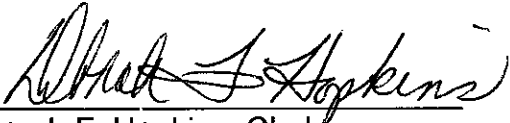
PASSED this 8<sup>th</sup> day of June, 2011 by the City Council of the City of Heyburn.

APPROVED this 8<sup>th</sup> day of June, 2011, by the Mayor of the City of Heyburn.

THE CITY OF HEYBURN

  
By: George A. Anderson, Mayor

Attest:

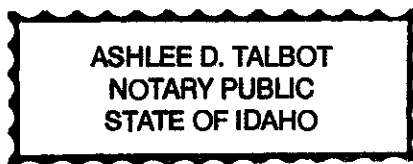
  
Deborah F. Hopkins, Clerk

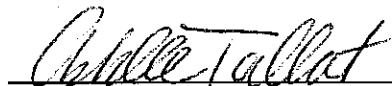
STATE OF IDAHO                     )  
  ) ss.  
County of Minidoka                )

On this 9<sup>th</sup> day of June, 2011, before me the undersigned, a Notary Public in and for said state, personally appeared George A. Anderson, known to me to be the Mayor of the City Heyburn, Idaho and Deborah F. Hopkins, the Clerk of said City and the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed and attested the same on behalf of and as authorized by said city as its authorized representatives.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)



  
Notary Public for Idaho  
Residing at Heyburn, Idaho  
Commission Expires: 12/7/2016

**EXHIBIT "A"**  
(Area Map)

